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No. 92-27

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

LEAMON THURMON GOULD ..... *Petitioner*

VS.

P. T. KRAKATAU STEEL ..... *Respondent*

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BRIEF OF AMICUS CURIAE STATE OF ARKANSAS

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ARKANSAS LEGISLATIVE DIGEST, INC

No. 92-27

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MOTION FOR LEAVE TO FILE AMICUS BRIEF OUT OF TIME

Pursuant to Rule 30.3 of the Supreme Court Rules, the Amicus, State of Arkansas, moves the Court for an extension of time in which to file an amicus brief on behalf of the State of Arkansas manifesting the state's interest in the referenced appeal. The Arkansas Attorney General, who represents the state, just learned of this case on August 7, 1992. The state wishes to file a brief expressing its interest in the issues raised in this appeal because this case may have a direct impact upon the ability of the citizens of the State of Arkansas to seek redress in the courts of the State of Arkansas for injuries resulting from the actions of foreign entities.

Respectfully submitted,

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STATEMENT OF INTEREST OF THE STATE OF ARKANSAS

Ordinarily the State of Arkansas would refrain from taking a position with respect to issues raised in the context of private litigation. However, the instant case presents a question which significantly affects actual and potential rights of Arkansas citizens as users and consumers of foreign made products, thus requiring this statement of position in support of the petition of Leamon T. Gould for writ of certiorari.

Almost thirty years ago, Arkansas determined legislatively that foreign defendants should be required to appear and defend actions brought against them in this state if they caused tortious injury in this state by conduct without the state

if they derived substantial revenues from goods consumed in this state. A.C.A. §16-4-101(c)(1)(2). This long-arm statutory provision was enacted to provide a forum for persons sustaining injury in Arkansas. The forum is available to Arkansas citizens and non-citizens alike, as the state has an interest in encouraging compensation for tortious injuries which almost invariably affect medical, insurance and related costs in the state.

The Arkansas statutory scheme is reflected in the statutes of the other thirty jurisdictions listed by petitioner Gould. None of these statutes requires a showing that a foreign defendant prospectively target the affected state as a market. Rather, the fact of contact with the forum state is established by satisfaction of the statutory requirements — in this case a claim for relief arising from respondent's causing tortious injury in Arkansas by an act or omission outside Arkansas while deriving substantial revenue from consumption of its products in Arkansas.

As international trade barriers diminish and, in some instances, disappear, foreign manufactured goods will proliferate in the various states. Manufacturers who seek and establish United States markets should respond in United States courts to complaints of consumers and users, particularly if, as in the instant case, the manufacturer's ultimate forum market (3,000 metric tons, value exceeding $900,000.00) is more than inconsequential.

The State of Arkansas therefore urges that Leamon Thurmon Gould's petition for writ of certiorari be granted, and adopts the arguments set forth in his brief.

Respectfully submitted,

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